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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

QIANG LU,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of the  
Department of Homeland Security; et al.,

Defendants.

No. C 07-4221 SBA

JOINT CASE MANAGEMENT  
STATEMENT

1. Jurisdiction and Service: There are no issues concerning personal jurisdiction. Plaintiff brought this Complaint under 28 U.S.C. §§ 1331 and 1361, and under the Administrative Procedure Act. All parties have been served.

2. Facts: On August 27, 2004, Plaintiff filed a Form I-485 application for adjustment of status to Legal Permanent Resident with USCIS. On the same day, a derivative I-485 application was filed on his wife's behalf. On August 17, 2007, Plaintiff filed this Complaint for a Writ in the Nature of Mandamus, alleging that Defendants are unlawfully withholding or unreasonably delaying action on his I-485 application, and asking the Court to compel USCIS to adjudicate both applications for adjustment of status. Plaintiff's name check is still pending with the Federal Bureau of Investigation. Plaintiff contends that his wife's name check remains pending; Defendants contend that the status of her name check is irrelevant to his claims.

CASE MANAGEMENT STATEMENT  
No. C 07-4221 SBA

1           3. Legal Issues: The principal legal issue the parties dispute is whether the Court has  
2 jurisdiction to compel agency action in this case and if so, whether a writ a mandamus should issue  
3 to remedy Defendants' alleged unreasonable delay in adjudicating Plaintiff's application.  
4 Defendants also contend that as a pro se plaintiff, Plaintiff may not argue for any relief for anyone  
5 other than himself, and that because his wife's application cannot be adjudicated until his application  
6 has been decided, there is no delay on her application.

7           4. Motions: The parties filed cross motions for summary judgment.

8           5. Amendment of Pleadings: None.

9           6. Evidence Preservation: None.

10          7. Disclosures: The parties agree that this Court's review will be confined to the  
11 administrative record and therefore this proceeding is exempt from the initial disclosure  
12 requirements under Fed. R. Civ. P. 26.

13          8. Discovery: There has been no discovery to date and the parties believe this matter can be  
14 resolved without discovery. No experts will be designated.

15          9. Class Actions: Not applicable.

16          10. Related Cases: None.

17          11. Relief: Plaintiff asks the Court to direct the agency to adjudicate his adjustment of status  
18 application and the derivation application on his wife's behalf. This case does not involve damages.

19          12. Settlement and ADR: The parties filed a Joint Request to Be Exempt From Formal ADR  
20 on December 4, 2007.

21          13. Consent to Magistrate Judge for All Purposes: Defendants did not consent to assignment  
22 of this case to a United States Magistrate Judge.

23          14. Other References: None.

24          15. Narrowing of Issues: None.

25          16. Expedited Schedule: The parties believe this matter can be solved through the motions.

26          17. Scheduling: The cross motions for summary judgment will be heard March 11, 2008,  
27 at 1:00 p.m.

28          18. Trial: The parties believe the matter will be resolved through the motions for summary

1 judgment.

2 19. Disclosure of Non-party Interested Entities or Persons: None.

3 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this  
4 matter: None.

5 Dated: February 29, 2008

Respectfully submitted,

6 JOSEPH P. RUSSONIELLO  
United States Attorney

7  
8 /s/  
MELANIE L. PROCTOR<sup>1</sup>  
Assistant United States Attorney  
Attorneys for Defendants

9  
10 Dated: February 29, 2008

11   
QIANG LU  
Pro Se

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13 **CASE MANAGEMENT ORDER**

14 The Joint Case Management Statement and Proposed Order are hereby adopted by the Court  
15 as the Case Management Order for the case, and the parties are ordered to comply with this Order.  
16 IT IS SO ORDERED.

17 Dated:

18 SAUNDRA BROWN ARMSTRONG  
United States District Judge

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28 <sup>1</sup>I, Melanie L. Proctor, hereby attest that I have on file all holograph signatures for any  
signatures indicated by a "conformed" signature (/s/) within this efiled document.